

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Acceleration of Broadband Deployment)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of)	
Broadband Deployment by Improving Policies)	
Regarding Public Rights of Way and Wireless)	
Facilities Siting)	

COMMENTS OF CITY OF PASADENA

The purpose of this letter is to provide comment and clarification from the City of Pasadena in response to the Notice of Inquiry related to improving government policies for broadband deployment, access to rights of way and wireless facilities siting.

Setting

The City of Pasadena is located 10 miles northeast of downtown Los Angeles with the San Gabriel Mountains bordering to the north and seven cities abutting the remaining city limits. Pasadena covers approximately 22.5 square miles with a population of approximately 148,126 (2008). Pasadena has 23 parks and is known for tree lined streets. There are approximately 57,000 street trees, 25,000 park and wild land trees and an additional 123,000 trees on private property throughout the City.

Pasadena has a rich history and provides some of the best examples of architectural styles. There are over 30 historic and/or landmark districts. Old Pasadena is a National Register Historic District that is known worldwide for the annual Tournament of Roses Parade that travels down

the heart of the District, Colorado Boulevard. Pasadena has renowned educational, cultural and recreational institutions such as Cal tech, Fuller Theological Seminary, Norton Simon, and the Rose Bowl Stadium. Pasadena is a city that is rich in history, cultural, diversity and community. Pasadena expects quality design and the consideration of aesthetics in all projects, including telecommunication installations.

The City of Pasadena files these comments in response to the Notice of Inquiry (“NOI”), released April 7, 2011, in the above-entitled proceeding. Through these comments, City of Pasadena seeks to provide the Commission with basic information regarding its local right-of-way and facility management practices and charges. The City of Pasadena has developed considerable expertise applying its policies to protect and further public safety, economic development, and other community interests. By adopting rules in this area, the Commission could disrupt this process at substantial cost to local taxpayers and to the local economy.

The City of Pasadena has successfully managed its property and processes to encourage deployment of several broadband networks to date. As a result, broadband service is available to all of the households and businesses in our jurisdiction. See the link for broadband availability within our region at the following link. (<http://www.broadbandmap.ca.gov/BroadbandFlex/>) There is no evidence that our policies or charges with respect to placement of facilities in the rights-of-way or on City property have discouraged broadband deployment. Our community *welcomes* broadband deployment, and our policies allow us to work with any company willing to provide service. We believe our policies have helped to *avoid* problems and delays in broadband deployment by ensuring that broadband deployment goes smoothly for both the providers who follow the rules and the larger community. For example, over the past 2 years, we worked with ATT to deploy approximately 120 U-verse nodes in the public right-of-way. This was a

significant undertaking that required coordination between multiple city departments for the effective planning and implementation of the facilities. On the other hand, we also know that many entities seeking access to our rights-of-way and facilities would prefer to live without rules or regulations, to the great detriment of other users, abutting landowners, commuters, and the general taxpayer.

I. *Application Procedures, Forms, Substantive Requirements, and Charges.*

The City of Pasadena has three general categories for processing broadband applications. Pasadena Water and Power coordinates the wire line facilities as related to utility poles and power needs, the Planning Department processes conditional use permits for facilities on private property and the Department of Public Works processes applications for facilities in the public right-of-way.

Pasadena Water and Power (PWP)

All attachments to poles, routing through conduit, and placements of power or terminal equipment that occur within the power system must have both an engineering review and a field survey to determine their impact and feasibility. PWP staff is involved with broadband applications as they relate to tenant attachments to the City's power distribution infrastructure. The overall goal is to ensure safe and efficient operations, to ensure that any billing for services is accurate, and to ensure that planning for needed future changes to both power system and broadband system are done efficiently. Key features include the ability to:

- Maintain accurate tenant records
- Perform Geographic Information System edits to maintain accurate data
- Process Joint Pole Authority requests for pole attachments
- Monitor construction

- Respond to public inquires

Planning Department

The current ordinance regulating Wireless Telecommunication Facilities is contained in Section 17.50.310 of the Zoning Code (<http://ww2.cityofpasadena.net/zoning/P-5.html#17.50.310>) for facilities on private property. The application procedures, submittal requirements and development standards are readily accessed via the web link above, or by calling or visiting the Pasadena Permit Center. Since adoption of the new ordinance in 2009, approximately 39 applications for wireless facilities on private property have been processed. The vast majority are minor applications as they are co-located. Minor applications under the code provisions require less processing time, a lower fee and have different standards as the code encourages facilities that are co-located. All of the minor applications were approved by the Hearing Officer with an average processing time of 60 days from receiving a complete application.

Department of Public Works

Installations of Telecommunication Equipment Facilities in the public right of way (PROW) are regulated under Title 12 of the Pasadena Municipal Code. This process was developed in conjunction with the update to the private property installations in 2009 and regulates installations of equipment on structures in the right of way related to telecommunication and video service. The project was an interdepartmental effort involving staff from the Planning Department and Department of Public Works, and resulted in an updated permitting process and development standards for installations on private property and a new process and establishment of standards for installations in the public right of way. The project was a community effort and included presentations before Council town hall meetings, community workshops and multiple discussions with the Planning Commission and City

Council. The community, wireless carriers and experts in the field of wireless telecommunications were invited to participate in the process of developing the regulations.

The application procedures, submittal requirements and development standards are also readily available on the internet

<http://library.municode.com/index.aspx?clientId=16551&stateID=5&statename=California> or by calling or visiting the Public Works Department. Since the new ordinance was adopted in 2009 approximately 200 applications have been processed for various telecommunications projects including, but not limited to fiber installations, broadband distribution, wireless antennas and the ancillary projects such as conduit, vault, power supply and antenna equipment installations.

The typical time for processing a telecommunications/broadband type facilities such as the ATT U-Verse projects previously mentioned, takes about 9 months from beginning to end. The typical process is as follows:

1. ATT requests facility (1 day)
2. Field meeting with appropriate city staff (2 weeks)
3. ATT develops plans (1-2 months)
4. City review for power supply (2 weeks)
5. Public noticing (1 month)
6. City review for substructure and permit issuance (1 month)
7. ATT bid/award (1 month)
8. Construction and city inspection (2 months)
9. Project complete (total time approximately 9 months)

The overall time for processing the permit from project submittal to permit issuance is generally under 60 days.

Sources of Delays.

In general, most applications are processed on a first-come, first-served basis along with other work processes based on the available resources of the respective departments in charge of processing. However, in some cases, there are delays due to design constraints, multi-jurisdictional requirements, additional public outreach and unforeseen circumstances encountered in the field during construction. One specific example may be the increased public outreach requirement due to a location change that can increase the overall project time by 1-2 months. Another example would be the delay during construction/inspection due to conflicts with other permitted construction or special event.

The City of Pasadena, similar to many other public agencies nationwide is asked to do more with less. As such, there is a limited amount of staff time to devote to processing broadband related projects. The Department of Public Works processes approximately 1500 permits issued annually to other private/public and utilities for work in the public right-of-way that follow a similar plan review, permit issuance and inspection process. Due to the nature of the broadband projects, the general public is concerned of project siting and visual impacts. Therefore, the City of Pasadena has developed procedures to balance the needs of the applicant with a reasonable amount of public process.

Direct oversight from the applicant and competent contractors are key requirements in minimizing construction conflicts and delays. As an example of how a construction technique can delay a project, we have a number of telecommunications companies that utilize horizontal directional drilling as a cost-effective method of placing conduits in the public right-of-way. In some cases, poor workmanship and contractors racing to complete projects has forced the City of

Pasadena to require open trench installations which increases design time, project costs and construction duration and impacts.

II. *Improvements.*

As demonstrated in the discussion above, the City of Pasadena is confident in stating that carriers for wireless service and broadband providers have been able to successfully implement networks within the City. The City of Pasadena has a number of practices that have improved processing:

Wireless Telecommunications Facilities:

- Updated ordinance in 2009 to encourage co-location and review through a Minor Conditional Use Permit. This has resulted in 37 of 39 of applications for private property processed as minor applications since adoption of the ordinance in 2009;
- Removed the discretionary review process for right-of-way installations and adopted a ministerial review process;
- Required an extensive outreach process for development of the new regulations involving the community, carriers and industry experts for both the private and public right-of-way requirements;
- Information on the requirements, applications and fees are readily available to any interested persons via the web, phone or in person. The permitting process and procedures are clear.

For private property applications, an applicant is notified within 30-days if the application is complete and ready to process or if additional required information has not been included and is necessary to commence the application process.

For right-of-way installations, the process can range between 30 days and 180 days. The City of Pasadena assigned appropriate staff to manage the various aspects of several city-wide communications projects most recently the ATT U-verse applications. The City developed a streamlined approach and method that involves key City staff from multiple departments working through each project from beginning to end including the site visits, design proposal, staff review and comment, revisions and approvals, public noticing, permit issuance and construction inspection

The City of Pasadena is thorough in the planning stages when coordinating projects that may have an impact to the general public especially those proposed facilities such as above ground cabinets and antennas. As such, the field locations and site analysis are critical as well as the public noticing period which ultimately reduce the potential for delays during the construction and minimize the number of redesigns or relocations due to conflicts.

III. *Permitting Charges.*

The following is a general discussion of broadband charges by type:

Pasadena Water and Power

Pole attachments are subject to the guidelines and lease fees established by the Southern California Joint Pole Committee. The Joint Pole Committee is made up of a group of member representatives of utilities, communications, and municipalities in Southern California who hold joint equity interest in utility poles. Established by telephone, electricity and railroad companies, the Committee has existed since October 10, 1906. It was formed as a result of the need to limit the number of poles in the field and to create a uniform procedure for recording ownership of poles. Each member has a vote and shares in the expenses of the Committee according to their joint pole interests.

There are other pass-through fees for make-ready work on utility poles. Power delivery is another process that will generate fees and is dependent on the actual power needs involved.

Private Property

Co-located installations on private property are processed as Minor Conditional Use Permits (MCUP). Freestanding Monopole installations are processed as Conditional Use Permits (CUP). The current fee to process an MCUP is \$2237 and for a CUP is \$4520. These fees are available on the city website.

Public Right-of-way

In general, permits are calculated based on the square footage of the work times the duration of the construction. On average, telecommunications permits involving trench work and vault placements range between \$100-\$200, whereas some larger, more involved projects can range upwards of \$1,000. The permit fee includes the permit processing and inspection services. These fees are available on the city website at the following link

http://cityofpasadena.net/Finance/Fees_and_Tax_Schedules/

The Department of Public Works collects a deposit to cover staff time when processing antenna applications due to the increased workload involved in the project siting and public noticing. There are annual lease fees based on the size of the facility and type of application.

IV. *Local Policy Objectives.*

The following vision, mission and core values guide our processes:

City Vision

Pasadena will combine world class events, science and technology, arts and culture, history and architecture with great neighborhoods and opportunities for all.

City Mission

The City of Pasadena is dedicated to delivering exemplary municipal services responsive to our entire community and consistent with our history, culture and unique character.

City Values

Responsiveness

Honesty and integrity

Accountability

Excellence

Open, clear and frequent communication

Innovation

Diversity and inclusiveness

V. Possible Commission Actions.

As noted above, the City of Pasadena strongly urges the FCC to refrain from regulating local right-of-way management and facility placement processes. These are highly fact-specific matters, which turn on local engineering practices, local environmental and historical conditions, local traffic and economic development patterns, and other significant community concerns and circumstances. These matters are managed by local staffs with considerable expertise. Imposing a federal regulatory regime would create unnecessary costs for our community, and it would have the potential to undermine important local policies. Likewise, Commission regulation of charges for use of the rights-of-way could have significant impacts on the community, and may actually make it infeasible to continue to maintain or provide important public services. If the Commission feels compelled to act in this area at all, it should limit itself to voluntary programs

and educational activities, and to implementing its own recommendations in the National Broadband Plan for working cooperatively with state and local governments.

CONCLUSION

The City of Pasadena urges the Commission to conclude that right-of-way and facility management and charges are not impeding broadband deployment. As indicated above, in the City of Pasadena, our policies and procedures are designed to protect important local interests, and have done so for many years. There is no evidence that the policies have impaired any company from providing broadband service here, and there are many reasons to believe that federal regulations would prove costly and disruptive to our community.

Respectfully submitted,

City of Pasadena

By: Bill Bogaard
Mayor
P.O. Box 7115
Pasadena, CA 91109-7215

cc: National League of Cities, Bonavita@nlc.org
National Association of Counties, jarnold@naco.org
NATO, straylor@natoa.org
The United States Conference of Mayors, rthaniel@usmayors.org